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## "To Lay What Restraint They Could": Deerskins, Regulators, and Social Disorder in the South Carolina Backcountry, 1761-1772

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“TO LAY WHAT RESTRAINT THEY COULD”: DEERSKINS, REGULATORS, AND  
SOCIAL DISORDER IN THE SOUTH CAROLINA BACKCOUNTRY

1761-1772

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A Thesis

Presented to

The Faculty of the Department of History

The College of William and Mary in Virginia

In Partial Fulfillment

Of the Requirements for the Degree of

Master of Arts

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by

Robert Paulett

2000

## APPROVAL SHEET

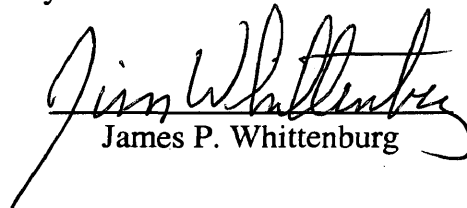
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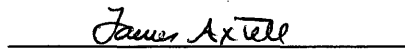


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## ABSTRACT

This study seeks to address the characteristics of and responses to social disorder in the South Carolina backcountry during the 1760s. Deerskin traders, moving among Indian villages beyond the surveillance of colonial authorities, felt freer to conduct their business as they pleased, straining peaceful relations between Indians and European settlers, even resulting in the Cherokee War of 1760-1761. Following that war and its attendant treaty, white settlers rushed into former Indian lands and found that they had left behind established authority and entered a land property could not be secured against the outrages of bandits.

Colonial authority was centered in the town of Charleston and did not extend far beyond the coastal districts. Lowcountry planters controlled the South Carolina Assembly and largely ignored backcountry grievances throughout the 1760s. In 1767, the backcountry settlers, equating the insecurity of property with social chaos, organized themselves into a movement known as the Regulators. They drove out the bandits, they punished “vagrants,” and they petitioned the Assembly to establish courts in the backcountry. Each of these actions derived from English notions of social order that the settlers had carried with them into the backcountry.

The Regulators have received a fair amount of attention from historians, but this paper places the movement within a slightly broader context of other backcountry “orderings.” During the 1760s, colonial authorities in the Southeast were trying to regulate the deerskin traders. The Cherokee War of 1760-61 had demonstrated the violence that could result from an uncontrolled trader population left among the Indians. Much like the Regulator movement, the Cherokee War can be seen as a means by which backcountry inhabitants (in this case the Cherokee Indians), frustrated by Charleston’s inability to address their grievances, rose up and imposed order. The Cherokee War, like the Regulator movement, had resulted from Charleston’s long-standing policy of allowing the backcountry to police itself.

Following the Cherokee War, the colonial government in Charleston struggled with the question of how to regulate a trader population that lived beyond the reach of colonial authority. A shared language of social disorder resonated between complaints about the traders and the Regulator grievances. This thesis explores that language and interprets the Regulator movement as part of a larger movement to establish authority over the South Carolina backcountry.

## INTRODUCTION

The event was fairly routine. In March 1763, Anthony Duesto sold a tract of land to Benjamin Hart for £900. Duesto had himself bought the land from his long-time neighbor Josiah Tomlinson, both men having resided in Fredericksburg Township since the early 1750s. In the room that day was Joseph Kershaw, serving as witness to the sale. Kershaw had come to Fredericksburg Township in 1758 as a partner of the Charleston firm of Ancrum, Lance, and Loocock to establish a store at the little crossroads of Pine Tree Hill. Numerous customers stopped by: deerskin traders on their way between Charleston and the Cherokee and Catawba territories, local farmers, and other passers-by. The store was quite successful and Kershaw was quickly becoming one of the most prominent figures in the South Carolina backcountry.<sup>1</sup>

Less than eight years later, Duesto found himself tied to a post, receiving five hundred lashes in front of an angry mob of men who called themselves Regulators.<sup>2</sup> Duesto had become an outlaw, one of numerous horse thieves, housebreakers, and highway robbers who roamed the South Carolina backcountry in the 1760s. The Regulator riots, lasting from late-1767 until 1769, were mob actions against criminals and other people who the Regulators considered undesirable. The Regulators envisioned a

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<sup>1</sup> Details culled together from various sources: Clara A. Langley. South Carolina Deed Abstracts, 1719-1772, 4 vols. (Easley, SC: Southern Historical Press, 1983); Thomas J. Kirkland and Robert M. Kennedy. Historic Camden (Columbia, SC: State Company, 1905); Rachel N. Klein Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808 (Chapel Hill: University of North Carolina Press, 1990)

<sup>2</sup> South Carolina and American General Gazette, Feb. 5, 1771

stable, orderly society, where personal property was secure and where aspiring leaders such as Joseph Kershaw could assert themselves as patriarchs over the backcountry.<sup>3</sup> Such a society could only be obtained once bandits like Duesto had been driven from the colony and courts had been established to prosecute future criminals.

The Regulator movement was a reaction to social disorder, both real and perceived. Frustrated over the high incidence of theft and fearing the threat to their persons, property, and families, the vigilantes acted in the absence of criminal courts in the South Carolina backcountry. They perceived themselves as inhabitants of a land somewhere between the English civil authority and the wilderness (authority was restricted to a narrow strip along the South Carolina coast). The movement was thus an attempt to eliminate the immediate threat posed by bandits and vagrants and to secure an insecure region by forcing the establishment of English institutions in upcountry communities. The Regulators viewed as opponents both wandering outlaws and an indifferent Assembly in Charleston, dominated by lowcountry planters.

The backcountry was not very secure in the 1760s. The Cherokee War of 1760-61 had ended in an uneasy peace. A boundary between North and South Carolina had not been established, and the two colonies' claims were in dispute. Criminal and civil courts met in Charleston, and backcountry litigants had to endure a trip of nearly two hundred miles to settle their disputes. Into this unsettled state came waves of new colonists from northern provinces and the South Carolina coast. Orderly extension of colonial authority was an ideal, but far from reality. Royal authorities in Charleston asserted their rights in the backcountry vis-à-vis North Carolina, but did little to extend county lines, parishes,

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<sup>3</sup> Kershaw himself was never identified as a Regulator, although he sympathized with their cause. He was elected to the Assembly, however, to represent the Regulator interests. See Richard M. Brown, The South Carolina Regulators (Cambridge: The Belknap Press of Harvard University Press, 1963), pp. 96-97

and courts as a means of establishing that authority. A question of Assembly seats set lowcountry and backcountry in opposition, and it was out of this context that the Regulator movement arose.

This study is not about the Regulator movement itself, although the Regulator movement serves as its primary focus and provides its main themes. The movement has been ably chronicled by historians Richard Maxwell Brown and Rachel Klein. Brown's work, The South Carolina Regulators, provides an excellent account of the events of the Regulation, which he described in its simplest terms: bandits were men and women "alienated" from society and the Regulators punished that lawless group. Klein picks up the story from Brown, detailing more fully the conflict between lowcountry and upcountry planters. To her, the Regulators were aspiring planters who sought a stable social in order to fulfill their desire for wealth and increased social standing. Klein's Regulation was the first in a series of conflicts between lowcountry and backcountry interests, and these conflicts were not resolved until the introduction of cotton in the South Carolina upcountry, uniting the two regions' interests along racial lines.

By no means do I seek to refute Brown's and Klein's arguments. My concern is with social disorder: its causes, both real and perceived, as well as how the backcountry was ordered in the absence of British legal, civic, and religious institutions. However, I seek to qualify the notion of the backcountry as a "lawless" land. It may have been unstructured, but backcountry society was not without form. In the absence of colonial authority, individuals had greater freedom to pursue their interests and to order the backcountry as they saw fit, whether they were Regulators, bandits, or Indian traders. Personality thus became a great concern and personal character was often the only means



by which individuals maintained control. However, British ideals of authority and property still governed individual actions, even in the remote and “lawless” backcountry. And even in the absence of royal courts and colonial authority, residents were capable of policing themselves.

I have divided my study into four chapters, each concerned with one aspect of social disorder in the South Carolina backcountry during the 1760s. The first two chapters explore the lack of British institutions and social structure in the region. The first chapter discusses the political context of upcountry settlement, emphasizing the limited reach of colonial institutions and the disruptions arising out of their absence. The reality of white settlement fell far short of the ideal of an orderly expansion of colonial society from the coast inland, and this failure produced a region where property was not secure and English legal structures were all but absent. In this sense only can the backcountry be labeled “lawless.” The second chapter looks at the deerskin trade in the colonial Southeast as a means of exploring how one particular group of individuals, the Indian traders, behaved outside the reach of British law. Recognizing their limitations, Charleston authorities essentially allowed the Indians to police the traders.

The third and fourth chapters focus upon how social order was envisioned by those who participated in the Regulator movement. Chapter Three concentrates upon social order as envisioned by Charles Woodmason, the Anglican itinerant whose parish included almost all of the South Carolina upcountry. Woodmason echoed the mantra that property was the basis for social order. However, his personal sense of mission produced a perception of disorder that combined bandits, vagrants, and dissenting religious groups. The fourth and final chapter examines the Regulators themselves and how their quest for

backcountry courts and their persecution of those they considered enemies were governed by ideals of British law even if the law's physical forms were absent from the backcountry.

Even though the backcountry was not completely lawless, the Regulators' motivation was that the backcountry failed to develop along orderly lines. The settlers who rushed into the South Carolina backcountry found that they had left social order behind them. In Woodmason's words, "Many of these new-settlers greatly repent their coming out here, to languish away life in a country that falls so very short of their expectation."<sup>4</sup> Colonial authority could not secure their property from the depredations of bandits and thieves. So between 1767 and 1772, the Regulators used the lash against their enemies so that the backcountry could be brought into line with their "expectations."

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<sup>4</sup> Charles Woodmason. The Carolina Backcountry on the Eve of the Revolution, ed. Richard J. Hooker, (Chapel Hill: University of North Carolina Press, 1953), p. 228

# CHAPTER I

## CONFUSIONS AND MISCHIEFS: THE SOUTH CAROLINA BACKCOUNTRY IN THE 1760s

In 1761, the fighting stopped. After a year of almost constant conflict, the Cherokee War ended in devastation for Indian and Englishman alike. Cherokee villages had been burnt. South Carolina's upcountry fields and farms lay in ruin. Indians withdrew to their diminished territory and Europeans ventured out of their forts and fortified houses to re-settle the South Carolina upcountry. A complicated affair of shifting allegiances and inter-colonial rivalry, the Cherokee War wreaked havoc on the South Carolina backcountry. Both Cherokees and Carolinians were left impoverished and dislocated. But the end of war brought new settlers into the region at a tremendous rate. In they poured from Pennsylvania, Virginia, and North Carolina to seek opportunity on the newly opened lands of the former Cherokee territory. But the lands were not yet prepared to receive them.<sup>1</sup>

Colonial authorities envisioned the backcountry's settlement as a smooth and orderly process. Following the Cherokee War, the Board of Trade at Whitehall instructed the incoming governor Thomas Boone to help institute an orderly method for granting lands and extending government, all with the goal of ensuring order and stability in the backcountry. Land speculation was to be avoided by asking the Assembly to pass a law enforcing the cultivation of lands granted. New grants were to be made only in proportion

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<sup>1</sup> For a full account of the Cherokee War, see David H. Corkran, Cherokee Frontier: Conflict and Survival, 1740-1762 (Norman: University of Oklahoma Press, 1962); also M. Thomas Hatley, The Dividing Paths: Cherokees and South Carolinians Through the Era of Revolution (New York: Oxford University Press, 1993)

to what a settler could reasonably cultivate: one hundred acres for every head of household plus fifty acres for each additional member of the household. Surveys of plots were to be conducted in such a way that every grantee had an equal share of good and poor lands and each plot fronted a river or other waterway. And to ensure that English institutions grew up alongside new settlements, a system of townships was to be enacted.<sup>2</sup>

Whitehall was quite explicit on this point. Townships, as experience in New Hampshire and Massachusetts had demonstrated, “redounded very much to [settlers’] advantage, not only with respect to the assistance they have been able to afford each other in their civil concerns but likewise with regard to the security they have thereby acquired against the insults and incursions of neighbouring Indians.”<sup>3</sup> Settlers were to receive a town lot in addition to their land grant. In the early stages of township settlement, residents would protect each other. Each town was to set aside land for the construction of a church and a glebe for its minister. When one hundred households had been established in the township, it was to receive the status of a parish and could then elect two members to the South Carolina Commons House of Assembly. Whitehall insisted upon an orderly means of distributing grants, since nothing could “more effectively tend to the further improving and settling of the said Province, the security and property of our subjects, and the advancement of our revenue of quit rents than the establishing a regular and proper method of proceeding with respect to the passing of grants of lands.”<sup>4</sup> This orderly distribution of grants and security was undermined, however, but a small

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<sup>2</sup> Instructions to Governor Thomas Boone, Nov. 11, 1761, in Great Britain, Public Records Office, Records of the British Public Records Office Relating to South Carolina, 1663-1782 [microfilm], 12 reels, (Columbia: South Carolina Department of Archives and History, 1973) Vol. 29, p. 160-178, hereafter abbreviated as PRO

<sup>3</sup> Instructions to Gov. Boone, Nov. 11, 1761, PRO 29: 162

<sup>4</sup> Instructions to Gov. Boone, Nov. 11, 1761, PRO 29: 162

oversight in the matter of the boundary line between North and South Carolina: one had never been surveyed.

Despite the royal government's repeated insistences upon a survey, beginning in the 1740s, the South Carolina Assembly had not funded a demarcation of the boundary line. As a result, a significant area of land was claimed by both colonies. Those settlers receiving grants from South Carolina in her more northern territories essentially lived between the jurisdiction of two separate governments. This same area was later to be a main locus of the Regulator movement. For most of the 1760s, though, and until a boundary was formally established between the two provinces in 1772, it was a disputed borderland.<sup>5</sup>

The governors of South Carolina, as well as Whitehall, recognized the confusion that resulted from this oversight. Disputes arose in 1762 over North Carolina's issuance of ejection notices to settlers living on land granted by South Carolina. Boone wrote to Governor Arthur Dobbs to protest the northern colony's actions: "a step of this sort... can tend to nothing but to throw both provinces into confusion."<sup>6</sup> Boone instructed the settlers to "treat the ejectments with the contempt they deserve and in no respect to acknowledge the jurisdiction of North Carolina."<sup>7</sup> The lack of a line also threatened the long-friendly relationship between the Catawba Indians and the English colonies. The Catawbans made "frequent complaints of the encroachments of North Carolinians upon those lands which the Catawbans call theirs... [and] an attempt of the North Carolina surveyors to run out even their burial places so exasperated them, that they pursued with an intention to

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<sup>5</sup> On the eighteenth-century borders of South Carolina, North Carolina, and Cherokee lands, see Louis De Vorsey, *The Indian Boundary in the Southern Colonies, 1763-1775*, (Chapel Hill: University of North Carolina Press, 1961, 1966), Ch. 5-6.

<sup>6</sup> Thomas Boone to Arthur Dobbs, Oct. 5, 1762, *PRO* 29: 243

<sup>7</sup> Boone to Dobbs, Oct. 5, 1762, *PRO* 29: 243-244

murder.”<sup>8</sup> Boone reiterated to Whitehall that the lack of a firm boundary “can only increase the confusion and interrupt the tranquility of both provinces.”<sup>9</sup>

Residents of the disputed territory were quite aware of their position between jurisdictions. Some had been made so after receiving ejection notices from North Carolina. Others recognized certain advantages that the dispute offered and chose to “contribute little or nothing to the support of government, under the pretence of uncertainty to which province” they belonged.<sup>10</sup> The absence of a firm boundary amounted to an absence of all law:

Where there is no jurisdiction, there can be no law, where there is no law, differences, disputes, injuries, and violences of all kinds must ever subsist, not only among the inhabitants of such particular parts, but between these inhabitants and the neighbouring [Indian] nations in their traffick with each other which may be of dangerous and fatal consequences to both colonies, as under such circumstances there is no possibility to prevent frauds and abuses in trade.<sup>11</sup>

The borderland between the two Carolinas was thus an area between two governments and answerable to neither. Property could not be secured and peace could not be maintained, either among white settlers or between white settlers and neighboring Indians.

In 1764, a temporary line was surveyed, but it did not extend far enough west. Until a line was completed, royal authorities fretted that “the same confusions and mischiefs will begin again where the line ends.” Already in 1764 there were “many settlers living to the northwestward of the Catawba lands [the terminus of the 1764 line]” and in those lands the surveyors from North Carolina had proceeded “far westward in running out lands and exult much in hopes that the line lately run will be continued due

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<sup>8</sup> Thomas Boone to Whitehall, Oct. 9, 1762, PRO 29: 245-246

<sup>9</sup> Thomas Boone to Whitehall, Oct. 9, 1762, PRO 29: 247

<sup>10</sup> Charles Garth, Agent for the Province of South Carolina, to Whitehall, Nov. 1762, PRO 29: 266)

<sup>11</sup> Charles Garth to Whitehall, Nov. 1762, PRO 29: 265-266

west, by some future order of His Majesty.”<sup>12</sup> In 1765, Lieutenant Governor William Bull reiterated to the Board of Trade in Whitehall that “great confusions” persisted in the surveying of lands in the hopes that the king would command an official line to be drawn.<sup>13</sup> Grants might have been issued in an orderly fashion, but the lack of a boundary line meant confusion among white settlements that could not be settled through the township system.

Even for those settlers living in undisputed territory, the extension of colonial authority did not follow the easy progression envisioned in Boone’s instructions. When the Regulator movement began in 1767, only Charleston offered courts, jails, or any other civic institution. Despite settlement within townships, despite a steadily increasing population, the entire interior of South Carolina remained a single parish. South Carolina had been divided into only four counties, and not even these enormous districts had so much as a sheriff or courthouse to administer the law. Courts had not been established outside of Charleston. There was only one jailhouse in the entire colony, and even that had fallen into disrepair. The colonial government in Charleston had jurisdiction over the colonies but in name only, for jurisdiction did not of itself produce law.

South Carolina in the 1760s had only one officer to enforce the law. The Provost Marshall of South Carolina, headquartered in Charleston, was essentially the only police officer for an entire colony. By 1767, it had become clear that the office was incapable of effectively discharging its enormous task. In that year Charles Garth wrote the King to “alledge generally the mischiefs and evils to arise where the redress of either private or publick wrongs and offence cannot be obtained but with much traveling, great expense,

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<sup>12</sup> William Bull to Whitehall, Dec. 10, 1764, PRO 30: 227

<sup>13</sup> William Bull to Whitehall, Dec. 17, 1765, PRO 30: 299

tedious delay, and often times hazard in attaining the end thereof.”<sup>14</sup> The location of the Provost Marshall in Charleston meant that settlers in the backcountry sometimes had to travel hundreds of miles to issue complaints or seek redress for personal injustices. Criminals, if captured, had to be transported great distances to the Provost Marshall’s jail in Charleston. And, once there, there was little guarantee that they would remain imprisoned for very long.

If the office of Provost Marshall was woefully unsuited to its task, the marshall’s jail was equally so. In the early-1760s, Provost Marshall Richard Cumberland complained to the Board of Trade that “the want of a proper and commodious goal” posed “great difficulties and insecurity” in the execution of his office.<sup>15</sup> He wrote in the hopes that Whitehall would be able to exert some pressure on the South Carolina Assembly to approve funding for “a house of Confinement, as shall be fit to receive and secure debtors and felons in the aforesaid province.”<sup>16</sup> He had petitioned the Assembly, but complained that “no notice has been taken of the remonstrances of the Provost Marshall, tho’ the rich and flourishing state of the government of South Carolina leaves itself without excuse for the neglect.”<sup>17</sup>

The jail was inadequate for two main reasons: it was too unhealthy for prisoners to stay inside, and it was too easy for them to get out. The quarters were too close and disease spread too quickly. The jail could not adequately house an entire colony’s debtors and felons. The Provost Marshall was thereby “frequently reduced to the disagreeable necessity of confining them in such a manner as humanity would otherwise forbid, and

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<sup>14</sup> Memorial of Charles Garth, esq., Agent to His Majesty’s Province of South Carolina, July 11, 1767, PRO 31: 401

<sup>15</sup> Memorial of Richard Cumberland, Provost Marshall of South Carolina, no date, PRO 30: 124

<sup>16</sup> Memorial of Cumberland, PRO 30: 124

<sup>17</sup> Memorial of Cumberland, PRO 30: 124



within such a compass as in the climate of South Carolina cannot but be productive of the worst consequences.”<sup>18</sup> Not only did a jail sentence produce poor health, but all too often prisoners availed themselves of the cleaner air outside. Cumberland found it “impossible to prevent frequent escapes by which not only heavy and repeated losses ensue to himself, but fresh dangers and disturbances befall the public, when malefactors find means to elude the punishment they deserve.”<sup>19</sup>

Royal instructions echoed Cumberland’s concern that a fitter jail was necessary, but the South Carolina Assembly did not see the issue as pressing. In the summer of 1764, the crown issued an instruction for a new jail to Lieutenant Governor William Bull, who informed the Assembly of the king’s desire. However, Bull wrote, “the Assembly acquaint me that the season of the year being so far advanced, and the heat of the weather rendered long sitting inconvenient, they must defer the consideration of the report ‘till the Winter.”<sup>20</sup> In 1765, the Assembly again declined to consider a new jail, and again in 1767, although the existing jail was “so old and weak, that the prisoners are frequently breaking out.”<sup>21</sup> The construction of a new jail was but one of a number of headaches the South Carolina Assembly caused royal administrators.

One of the Assembly’s most grievous oversights was their failure to publish the laws they passed. Throughout the 1760s, South Carolina’s governors had a difficult time fulfilling Whitehall’s requests for a published set of the colony’s laws and statutes. In 1767, the issue became heated when the Assembly called for the dismissal of the Chief Justice of South Carolina, Charles Shinner. The Assembly accused Shinner of

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<sup>18</sup> Memorial of Cumberland, PRO 30: 125

<sup>19</sup> Memorial of Cumberland, PRO 30: 125

<sup>20</sup> William Bull to Whitehall, August 20, 1764, PRO 30: 187

<sup>21</sup> Gov. Charles Montagu to Earl of Shelburne, August 14, 1767, PRO 31: 413

incompetence in office and ignorance of the colony's laws. Shinner shot back that his ignorance resulted from the Assembly's failure to make public the laws that they passed. Such a failure posed a serious threat to South Carolina's citizens. No less a figure than the Earl of Shelburne, one of the king's advisors, recognized the potential consequences of laws remaining unpublished: "As the first intention of making laws is, that they may be promulgated, and... numberless and vexatious suits and litigations must be the consequences of laws remaining so much in the dark."<sup>22</sup> Shinner asserted that the Assembly's motives were somewhat darker than mere negligence:

This Evil [failure to publish laws] still subsists: and your Memorialist apprehends that it will ever subsist for a very long time, because many gentlemen of the law, are constantly elected into the Lower House of Assembly, whose interest it is to keep others in ignorance of those acts, and your Memorialist knows that some of the lawyers, members of the House, have frequently declar'd in open court, that the moment the Acts of Assembly of this province come to be publish'd they will quit the bar and betake themselves entirely to planting.<sup>23</sup>

Shinner's accusation was certainly self-serving, but the "numberless and vexatious suits" of the Charleston courts and the image of a self-serving Assembly would both play a role in Regulator complaints.

South Carolina's legal system proved a great burden to backcountry settlers, as well as affording them little protection. The only courts in South Carolina were in Charleston, so that grievances could only be redressed at a cost of considerable time, travel, and money. Worse still was the lot of those being sued, since a summons to court ensured prolonged imprisonment in Charleston's "close and stinking goal."<sup>24</sup> William Bull recognized the difficulty that interior settlers faced in bringing claims to court. In 1765, over two years before the Regulator movement, he wrote the Board of Trade that

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<sup>22</sup> Earl of Shelburne to Gov. Charles Montagu, Oct. 8, 1767, PRO 31: 419

<sup>23</sup> Memorial of Charles Shinner, Chief Justice of the Province of South Carolina, 1767, PRO 31: 351

<sup>24</sup> Charles Woodmason. The Carolina Backcountry on the Eve of the Revolution, ed. Richard J. Hooker, (Chapel Hill: University of North Carolina Press, 1953), p. 219

the distance between settlement and court placed backcountry denizens “under great hardships for want of that protection of their persons and property which the law affords. I am therefore endeavoring to prevail on the Assembly to provide for the expence of circuit courts which will be great.”<sup>25</sup>

Thus the responsibility of correcting South Carolina’s problems fell upon the Assembly. But this responsibility was not shouldered. The South Carolina Assembly during the years 1764-1766 was in a state of turmoil and constantly fighting against the governor, first during the Gadsden election controversy and then the Stamp Act crisis. The Gadsden controversy, concerning gubernatorial authority over Assembly elections, essentially halted Assembly business from December 1762 until early 1764.<sup>26</sup> The Stamp Act crisis again interrupted Assembly sessions in 1765 and 1766. The Stamp Act controversy also cost the backcountry a sympathetic friend in Charleston: Chief Justice Charles Shinner.

Shinner had himself led campaigns against backcountry bandits in December 1766. A friend of Anglican itinerant Charles Woodmason, Shinner accompanied him into the South Carolina backcountry, where the judge became alarmed at the outrages that horse thieves had committed in the region. Shinner began to take actions that the Regulators would later adopt, attempting to “suppress the gangs of horse thieves” as well as “depressing vice, and bringing about a reformation of manners.”<sup>27</sup> Shinner attempted to raise the local militia against the bandits, but to no avail. Shinner made other attempts but they were thwarted each time by the thieves’ receiving information as to the judge’s

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<sup>25</sup> William Bull to Whitehall, March 15, 1765, PRO 30: 251

<sup>26</sup> For a complete account of the Gadsden controversy, see Jack P. Greene. “The Gadsden Election Controversy and the Revolutionary Movement in South Carolina” Mississippi Valley Historical Review, 46:3 (1959): 469-92

<sup>27</sup> Woodmason, Carolina Backcountry, p. 10

movements.<sup>28</sup> Unsuccessful though he was, Shinner might have proved a valuable ally to the Regulators had he not been removed from his office and forced to leave Charleston during the Stamp Act controversy. Whatever influence he might have had, Shinner's removal did not help and may have even hurt the Regulators' attempts to be heard in the colonial capital.

A royal proclamation was to prove even more harmful to the Regulator cause. Even if the Assembly had been fully sympathetic to the backcountry in 1767, there was little they could do regarding the creation of new parishes or courts. In that year, the crown instructed Governor Charles Greville Montagu that not "under any pretense whatsoever" was he to give his approval to "any law or laws... by which the number of the Assembly, shall be enlarged."<sup>29</sup> This proclamation meant that lowcountry planters would have had to give up their seats to accommodate backcountry delegates in the Assembly, setting the interests of lowcountry firmly against those of the backcountry.

The settlement and security of the South Carolina backcountry was therefore hindered in the 1760s by circumstances beyond their control. The white settlers poured into a region lacking British institutions and royal authority. But a lack of colonial structures did not mean a lack of order in the backcountry. The deerskin trade was, like the rest of the backcountry, nominally under Charleston's jurisdiction, but distance dimmed the capital's oversight. Left on their own recognizance, the Indian traders pursued their own interests with little regulation from colonial authorities. But regulation did come from another source: the Indians among whom they traded.

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<sup>28</sup> Woodmason, *Carolina Backcountry*, pp. 10-11

<sup>29</sup> Additional Instruction to Charles Montagu, *PRO*, 31: 410

## CHAPTER II

### THE DEERSKIN TRADE AND THE QUESTION OF AUTHORITY IN THE COLONIAL SOUTHEAST

The limited reach of Charleston's authority threatened backcountry order outside white settlements as well. Throughout the eighteenth century, Indian traders had journeyed between the coast and the upcountry, leaving colonial authority behind as they made their way up the rivers and paths of the colonial Southeast. Nominally regulated by the Board of Commissioners of the Indian Trade in Charleston, the traders were well aware of the Board's inability to oversee them once they left the coastal districts. The traders and their deputies were free to conduct business as they saw fit, usually to the detriment of the Indians who supplied them with deerskins. The traders often abused their position, confident that no colonial authority would prosecute them. However, the traders failed to understand that when they left the British world in Charleston, they entered into an Indian world that was capable of punishing their excesses.<sup>1</sup>

The deerskin traders had gained an ignoble reputation by the 1760s. Colonial agents, royal governors, and merchants alike decried these men who chose to trade among Indians rather than settle among whites. They were described as "the refuse of the

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<sup>1</sup> For more on the mechanics and history of the deerskin trade, see Verner Crane. The Southeastern Frontier, 1670-1732 (Ann Arbor: University of Michigan Press, 1929, 1964); John Philip Reid. A Better Kind of Hatchet: Law, Trade, and Diplomacy in the Cherokee Nation During the Early Years of European Contact (University Park: Pennsylvania State University Press, 1976); Kathryn Braund. Deerskins and Duffels: The Creek Indian Trade with Anglo-America, 1685-1815 (Lincoln: University of Nebraska Press, 1993); James Axtell. The Indians' New South: Cultural Change in the Colonial Southeast (Baton Rouge: Louisiana State University Press, 1997), Ch. 3

earth.”<sup>2</sup> These men were lawless individuals, with such little moral character that they were unable to conform to “the order of civil society.” To many, the traders were simply wandering vagrants who could not live under English law, scurrying out to the periphery where they were free from any law whatsoever. Traders were defined as those who dreaded “the introduction of order, regularity and laws, by which their enormities may be punished and restrained.”<sup>3</sup> They were viewed bluntly as “a sett of bad people not to [be] depended on, a kind of bandite, the very refuse of all provinces, who harbour themselves here [in the backcountry] from the laws of the land. They have no principles of liberty or property.”<sup>4</sup> In these descriptions, one may find rhetorical cousins of the bandits that so grieved the Regulators. Likewise, the Indian traders posed a threat to the security of the frontiers.

From as early as the Yamasee War of 1715, conflicts between colonists and Indians had been blamed on the deerskin traders. The Cherokee War was no exception to this rule. Virtually every member of the British colonial government recognized this fact, from the Superintendent of Indian Affairs to the colonial governors to Whitehall itself. In its instructions to Governor Charles Montagu of South Carolina, the Board of Trade well understood that “the licentiousness and ill behaviour of Indian traders are in fact the cause of all the mischiefs which [the Indians] are stirred up to act.”<sup>5</sup> The traders thought of nothing but their own profit, stuck “at nothing to obtain a temporary advantage,” and

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<sup>2</sup> Thomas Boone. “A Rough Sketch of a Plan for the Management of Indians in General and the Conducting of Necessary Commerce with them upon the Principles of Justice Towards them and the Security to the Colonists” submitted to the Boards of Trade January 20, 1764, PRO 29: 397.

<sup>3</sup> John Stuart on General Indian Relations in the Southern Department, 1765, Records of the British Colonial Office, class 5 [microfilm] Part 1: “Westward Expansion, 1700-1783” 12 reels, v. 66, p. 386, (hereafter cited as Westward Expansion).

<sup>4</sup> Capt. Ryd. Demere to Governor Lyttelton, Jan. 31, 1757 in William McDowell, ed., Documents Relating to Indian Affairs, 1764-1765 South Carolina Department of Archives and History (Columbia: University of South Carolina Press, 1970).

<sup>5</sup> Whitehall to Montagu, Oct. 23, 1766, PRO 31: 271.

thereby provoked the Indians “by acts of injustice to throw a whole province into confusion.”<sup>6</sup> Regulation of the traders was thus of crucial importance, because their poor conduct could strain Indian-white relations and even provoke war. They were thus a threat to the very security of the colonies.

The characterization of traders as lawless, however, is misleading. Traders did live for the most part beyond the reach of English law. They did from time to time take advantage of and cheat Indians in the deerskin trade. Although English authority could be avoided, the traders still had to abide by Indian notions of fair trade, since they depended upon Indians for their livelihood and often their lives. When the traders moved into Indian nations, they left English authority behind, but they moved deep within the bounds of Indian authority. Indians may have been reluctant to punish English peddlers, but they certainly were not incapable of doing so. Both the Yamasee War of 1715 and the Cherokee War of 1760-61 attested that traders could not abuse their Indian trading partners and get away with it.<sup>7</sup>

Traders left on their own without fear of English law might be expected to abuse their relative autonomy, and many did. Colonial records concerning the Indian trade testify to the frequency of trader abuses, which ranged from dishonesty in weighing skins and the importation of rum to the physical abuse of Indians and the enormity of Indian debt. Rum and debt were closely associated and were the sources of a large number of Indian complaints. However, as early as 1711, the Board of Commissioners had

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<sup>6</sup> Thomas Boone to Whitehall, Jan. 20, 1764, PRO 29: 397.

<sup>7</sup> The Yamasee War was an Indian uprising in 1715 that resulted from trader abuse. William Byrd II, himself deeply involved in the deerskin trade, attributed “the fatal war” to traders “abusing [Indian] women and evil entreating their men.” William Byrd, Prose Works: Narratives of a Colonial Virginian, ed. Louis B. Wright (Cambridge, MA: Belknap Press of Harvard University Press, 1966), 307. For a fuller account of the Yamasee War, see James Merrell, The Indians’ New World: Catawbas and Their Neighbors from European Contact through the Era of Removal (New York: W.W. Norton and Co., 1991), Ch. 2.

recognized that it could not extend its authority very far into the interior and thus could do little to police the traders. The Board left it to the Indians themselves to “lay what restraint they could upon their people to prevent their buying rum from the traders” and “to take care not to run in debt” in the future.<sup>8</sup> Although the Board certainly did not prescribe the sorts of violence that marked the Yamasee and Cherokee Wars, it essentially admitted that it could not effectively restrain the traders, leaving the Indians to police the trade themselves. The two wars might be seen as the extreme extension of that tradition of self-regulation.

The two wars also provoked similar responses from the South Carolina government. Following each conflict, the government in Charleston realized the grave results that could follow from an unregulated trader population. After the Yamasee War, South Carolina instituted a factory system, which placed the trade in the hands of the government. Indians were to trade at British forts on the frontier. This first attempt at a public trade lasted only three years, from 1716 until 1719. However, the devastation of the Cherokee War convinced the royal government that it was worth another attempt at a closely guarded trade. When the newly appointed Governor Thomas Boone received his instructions from Whitehall, one of them was to propose that the South Carolina Assembly pass “one or more laws for the better regulation of the Indian trade.”<sup>9</sup> In 1762, the Assembly reestablished the factory system. But it did not last very long.

In October 1763, the factory system was undone by royal proclamation, which altered the way traders were licensed. One had only to post a bond to become a trader, and licenses were no longer restricted to certain Indian villages. Of greater importance,

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<sup>8</sup> William McDowell, ed. *Journals of the Commissioners of the Indian Trade, September 20, 1710-August 29, 1718* (Columbia: South Carolina Archives Department, 1955), 11

<sup>9</sup> Instructions to Gov. Thomas Boone Nov. 11, 1761, *PRO* 29: 177-178



however, was that the new licenses granted unlimited power of substitution to the trader, meaning that a merchant in Charleston or Augusta could become licensed and then authorize any number of agents to carry goods to and from Indian towns. Even with the instruction that “none but those whose good conduct and prudence may be relied upon” should be granted licenses, the governors and superintendents of the southeastern colonies could not supervise that trader’s innumerable agents and packhorse men.<sup>10</sup> The proclamation was a “virtual though not a formal repeal” of the factory system that had been enacted following the Cherokee War.<sup>11</sup>

The net effect of the proclamation was that a flood of “corrupt and shamefully-indulged vagrant pedlars” was unleashed upon the backcountry.<sup>12</sup> The general aim of the proclamation was to renew the Indian trade that had been halted during the conflicts of the Seven Years’ War. Within a year of the proclamation, traders had “dispersed through the nations, altho’ not yet so plentifully as they were before the Cherokee War.”<sup>13</sup> The wisdom of the proclamation was quickly questioned, by governors and Indian agents alike.

The factory system had been instituted to correct the trade abuses resulting in the Cherokee War. It was recognized fact that Indian traders were not to be trusted. William Bull, only a few weeks after informing the Board of Trade that he was complying with the king’s orders, questioned the wisdom of allowing traders virtually free reign. He expressed his concern that the proclamation did not provide enough regulations and that

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<sup>10</sup> Whitehall to Charles Greville Montagu Oct. 23, 1766, *PRO* 31:271. Packhorse men were those associates of traders, if not actual traders themselves, who oversaw the horse and mule trains that carried goods between Indian villages and English centers such as Augusta, Georgia, and Charleston.

<sup>11</sup> Thomas Boone to Whitehall Jan. 9, 1764. *PRO* 29: 306

<sup>12</sup> James Adair, quoted in Kathryn Braund. *Deerskins and Duffels: The Creek Indian Trade with Anglo-America, 1685-1815* (Lincoln: University of Nebraska Pres, 1993), 395-96.

<sup>13</sup> William Bull to Whitehall, August 20, 1764, *PRO* 30: 186.

“some disorders may happen for want of such orders and regulations, as the trade is generally carried on, at least the most servile parts of it, by men who can scarce live by any other means or conform to the order of civil society.”<sup>14</sup> Bull’s concern was that colonial authority did not extend far enough into the backcountry to keep a proper check on the traders. The Indian trader’s only restraint was his own conscience. Considering the general opinion contemporaries held of the traders, this meant no restraint at all.

Governor Boone feared the results of a loose and disorderly trade and petitioned Whitehall for reconsideration. Arguing that “the security of the Colony is the first object, and its trade second only,” Boone made it clear that an unregulated Indian trade would result in further conflict.<sup>15</sup> Boone’s “Rough Sketch of a Plan” for conducting the deerskin trade advocated a return to the factory system, with British officers and royal factors overseeing the sale of goods. No credit was to be extended to the Indians, since that had been the cause of the late war. The trading forts would also serve as a means of subduing the frontier: “rum, sickness, war, famine, and a constant persecution of the beasts [deer and other game], will have render’d the country beyond [the] posts less necessary, as well as less habitable for the Indians,” thereby smoothing the way for white settlement.<sup>16</sup>

Boone’s proposal thus served two functions. One, it removed the threats associated with an unregulated trade. Two, and more chilling, it made the deerskin trade a “civilizing” agent on the frontier. The free and open trade granted by the king’s proclamation would result either in war or in “the engrafting [of] the arts, and villainies that have expelled the traders from civilized society, upon the savage stock.”<sup>17</sup> In neither

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<sup>14</sup> William Bull to Whitehall, Sept. 13, 1764, PRO 30: 195

<sup>15</sup> Thomas Boone to Whitehall, Jan. 20, 1764, PRO 29: 398

<sup>16</sup> Thomas Boone to Whitehall, Jan. 20, 1764, PRO 29: 403

<sup>17</sup> Thomas Boone to Whitehall, Jan. 20, 1764 PRO 29: 397

case were the English interests of civilization and security served. One made the Indians hostile, the other made them corrupt and villainous. Boone recognized that his proposal appeared “a little unchristian, but when it is considered that the end is to establish peace, to secure the lives and properties of the King’s subjects, to distribute justice to the savages, in their own way, to extend the cultivation of the soil, to augment commerce, and to raise the credit of the British name, which has been derided and vilified it may deserve some little consideration.”<sup>18</sup> Here was perhaps one of the clearest statements of the British vision of social order: a land where property was secure and land was cultivated, where justice was properly distributed and commerce steadily increasing. It was a vision shared in no small part by the Regulators. Boone’s recommendation, however, went unheeded and the proclamation remained the means of governing the deerskin trade.

From the backcountry itself came reverberations of the same concerns that Bull and Boone had expressed from Charleston. John Stuart, Superintendent of Indian Affairs for the Southern Department, was a vocal critic of the general licenses. He had seen firsthand the flood of “corrupt and shamefully-indulged vagrant pedlars,” and, like James Adair, attributed it to the Proclamation of 1763. For example, he claimed that in the Chickasaw nation no less than seventy-two traders and packhorse men peddled their wares among an Indian population that included fewer than 350 men bearing arms, or one trader for every five Indian adult males. Five Indian hunters, no matter how skilled, simply could not provide enough skins to keep a trader happy, much less solvent. Even if this was an extreme case, the deerskin trade was in general afflicted by rather unfriendly competition among the traders, which Stuart argued had “distracted and thrown them into

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<sup>18</sup> Thomas Boone to Whitehall, Jan. 20, 1764, PRO 29: 404

great confusion. They are now divided into parties, and in a state of civil war, and many of them have lately died by their countrymen's hands."<sup>19</sup> Worse than traders killing traders was that their bloody competition involved the Indians amongst whom they resided.

Stuart's greatest fear was the adverse effect this unruly multitude of traders was having upon the Indian villages. The traders disrupted the peace in Indian villages: "the competition and jealousies amongst [the traders] divide the Indians into parties, upon whom they practice every imaginable trick and fraud, such practices when detected... naturally bring on those acts of violent resentment so much complained of by which we are constantly in danger of having a war with all the nations."<sup>20</sup> The traders turned Indians against themselves, sparking conflicts over succession of headmen. The traders also turned Indians against other traders, availing themselves "of the avidity of the Indians for rum, and when drunk, set them to rob and insult their competitors, and tear down their houses."<sup>21</sup>

This tearing down of houses perhaps illuminates a new dimension to the trader conflict. A number of traders had established themselves long before the Proclamation of 1763, and many had rendered valuable service to the colonial government as interpreters, guides, and messengers. These traders supplied only a single Indian village and usually established a residence, sometimes a family, among the Indians.<sup>22</sup> These more established traders would have provided the strongest competition to a newcomer, because they were

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<sup>19</sup> John Stuart on General Indian Relations in the Southern Department, 1765, Westward Expansion, 66: 390.

<sup>20</sup> Letter from John Stuart, August 8, 1766, Westward Expansion, 67: 590.

<sup>21</sup> Stuart on General Indian Relations, Westward Expansion, 66: 390.

<sup>22</sup> On the varying roles that traders performed in the colonial backcountry, see Reid, A Better Kind of Hatchet; for a primary account, see "Journal of an Indian Trader," in McDowell, Documents, 56-71.

better known and perhaps better trusted by the Indians. The fact that houses were torn down suggests that the conflict between traders was not competition among equals but a conflict that sometimes ran along lines of experience. Indeed, older traders were very vocal in their condemnation of the newcomers, or “adventurers,” as they termed them.<sup>23</sup>

The effect of the Proclamation of 1763, the older traders asserted, was to unsettle the deerskin trade. So many traders had flooded into the Cherokee towns by 1767 that the nation was overstocked with goods. The increasing number of traders was met by a decreasing Cherokee population, one ravaged by disease and war with northern tribes. Deerskins were thus in short supply, and the general licenses allowed traders to roam from town to town, each trying to undersell the others.<sup>24</sup> Trade was also moving beyond the traditional locus of the Indian village. “New traders finding no room in the towns,” read one petition, “have betaken themselves to the woods and settled themselves at Indians’ plantations in their hunting grounds where they use every art to get the skins from the Indian before he returns to his town.”<sup>25</sup> The language used by the older traders is familiar. They characterized the new traders and their packhorse men as “mostly of bad morals and licentious manners; who by enormities have already been the cause of and will probably endanger more difficulties with the Indians, and in the end perhaps occasion an open rupture.”<sup>26</sup>

The morals and manners of the petitioners cannot be determined, but the light in which they cast themselves is telling. The older traders allied themselves with order and

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<sup>23</sup> Memorial of the Merchants and Traders of the Province of Georgia, May 21, 1767, Westward Expansion, 68: 912.

<sup>24</sup> See the Memorial of the Licensed Traders of South Carolina, May 21, 1767 Westward Expansion, 68: 907.

<sup>25</sup> Memorial of the Merchants and Traders of the Province of Georgia, May 21, 1767, Westward Expansion, 68: 912.

<sup>26</sup> Memorial of the Merchants and Traders of the Province of Georgia, May 21, 1767, Westward Expansion, 68: 913.

propriety, as opposed to the newcomers, who threatened chaos, insecurity, and war with the Indians. The new traders were “many of them men of no character or property stick at no order to gain their point, and provided they can get skins, will not consider what they cost, thereby raising disgust and dissatisfaction amongst the Indians and occasioning them to desire further deductions, as imagining themselves hitherto to have been imposed on.”<sup>27</sup> Their practices were undermining the Indians’ trust in the older traders, thus weakening the latter’s standing among the Indians. Should the newcomers continue in this manner, the petitioners argued, “none will be left but such as having no property of their own, will be indifferent as to the future, so they can indulge their present desires and their principles when too late will find out the error they have been guilty of.”<sup>28</sup> By defining the new traders as men of neither property nor character and as having no concern for the future, the old traders aligned themselves with the ideal of order expressed by Boone. The petitioners were, by implication, men concerned with property, commerce, peace, and security for the whole colony.

By 1767, the concerns expressed over the Proclamation of 1763 had convinced the royal government that changes were in order. On April 14, 1767, the South Carolina Assembly passed a set of “Regulations for the Better Carrying on the Trade with the Indian Tribes in the Southern District.” The regulations did not remove the trade from the hands of private traders; they merely outlawed certain activities and provided the superintendent with greater authority to punish rule-breaking traders. The regulations were in agreement with the older traders’ assertion that not every white peddler among

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<sup>27</sup> Memorial of the Merchants and Traders of the Province of Georgia, May 21, 1767, Westward Expansion, 68: 913.

<sup>28</sup> Memorial of the Merchants and Traders of the Province of Georgia, May 21, 1767, Westward Expansion, 68: 914-915.

the Indians was dissolute and immoral. Men of poor character and shady dealings were to be removed from the trade, along with their vagrant and idle associates. The document was decidedly racist, prohibiting traders from employing any “Negro, Indian, or Half-Breed, professing himself an Indian.”<sup>29</sup> In the margin of one copy, it was written that “The intention of this article is to prevent vagrants and men of bad character being employed in the quality of clerks etc. to traders.”<sup>30</sup> Character was not just a moral judgment, but a racial one as well. The article also expressed concern over the close association between traders and vagrants.

Vagrancy was a hindrance to an orderly trade. In 1765, John Stuart had said as much: “The traders, their substitutes, and packhorsemen wander where they please to every nation and through every village.” Indian nations had become “a receptacle for vagabonds and enemies to all order.”<sup>31</sup> The wandering trader could more easily elude supervision, and the trading post in the woods was virtually invisible to colonial authorities. The traders brought a disorderly element into the backcountry, wandering where they might whenever they pleased. They also brought a disorderly population into the backcountry. The regulations of 1767 dictated that “no Indian trader shall harbour or conceal any white person, in the Indian nation, for a time exceeding fourteen days, on any account whatsoever.”<sup>32</sup> The margin note maintained that this article’s intent was to “discourage idlers and vagrants in the Indian nations.”<sup>33</sup> The concern over vagrancy and idleness among the Indian traders reverberates strongly with the Regulators’ intentions. It

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<sup>29</sup> Regulations for the Better Carrying on the Trade with the Indian Tribes in the Southern District, article 3 Westward Expansion, 68: 855-56.

<sup>30</sup> Margin note to article 3 of Regulations for the Better Carrying on the Trade, Westward Expansion, 68: 855.

<sup>31</sup> Letter from John Stuart August 8, 1766 Westward Expansion, 67: 591-92.

<sup>32</sup> Regulations for the Better Carrying on the Trade, article 5 Westward Expansion, 68: 855-56

<sup>33</sup> Regulations for the Better Carrying on the Trade, article 5 (margin note) Westward Expansion, 68: 855

also hints that perhaps the connection between the regulation of the deerskin trade in 1767 and the Regulator movement beginning the same year was somewhat more than a matter of similar terminology.

In 1767, it became harder to make a living as a deerskin trader. The regulations passed that year meant greater scrutiny by the superintendent. Likewise, Stuart gave notice that as of October 3, 1767, all traders would have to be relicensed and that he would not consider older licenses valid.<sup>34</sup> However much actual authority the superintendent had as a result of the proclamations, circumstances beyond the control of English law made the occupation of deerskin trader less tenable. The Indian villages were overstocked with goods, and traders were crowding each other out. Competing traders were at the same time fighting for a dwindling supply of deerskins, especially in the Cherokee towns. That nation had suffered diminution by attacks from northern tribes and a particularly severe smallpox epidemic in 1766.<sup>35</sup> Traders had to look elsewhere for profit, and perhaps they were connected to the rise in crimes against white settlers that sparked the Regulator movement in late 1767.

There is no hard evidence that the deerskin traders themselves turned to horse theft and house robbing as a trade, but stolen horses and pilfered goods need to be sold to realize a return. Perhaps a few of the more unscrupulous traders became middlemen in an illicit trade. As early as 1761, Lieutenant Governor William Bull had complained that “this trade, so detrimental to His Majesty’s service, but so lucrative as to tempt many to engage in it, had become... publick and notorious.”<sup>36</sup> Certainly South Carolina had long

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<sup>34</sup> See Letter from John Stuart, July 28, 1767, Westward Expansion, 68: 901.

<sup>35</sup> On the 1766 epidemic, see A Talk from the Cherokee Chiefs and Headmen of their Nation to Their Father in Charlestown” Sept. 22, 1766 Westward Expansion, 68: 687.

<sup>36</sup> William Bull to William Pitt, April 26, 1761, PRO 29: 43-44



been concerned with illegal smuggling and trade with French merchants in the backcountry. Woodmason claimed that stolen horses were part of an intercolonial market, reaching as far as the French West Indies: thieves stole the horses, then sold them to “Dutch agents, for to be transported to the French Islands to work their sugar mills.”<sup>37</sup> The correspondence of South Carolina’s governors attests to that. And it is quite possible that an English trader had contact with markets other than English ports. Since traders had been known to harbor “vagrant and idle” persons, it does not seem far-fetched that they might have served as crucial links in the economic networks of the backcountry banditti. But, speculation aside, it is certain that the traders presented a crisis to backcountry order, and that their regulation was necessary.

Given the nature of colonial regulation of the deerskin trade, the Regulator movement might be seen as not all that surprising. In each case, the lack of colonial authority in the backcountry allowed individuals greater freedom in ordering – or disordering – the backcountry as they saw fit. Yet, despite the absence of royal courts, rules, and regulations, those who made their way through the backcountry were policed by the groups among whom they traveled: the deerskin traders had to abide by Indian standards of fair trade, else they risked their business, if not their lives. Bandits were reigned in by the backcountry planters and merchants from whom they stole. The Yamasee and Cherokee Wars, and the Regulator movement were all the results of a long-standing Charleston policy of letting the backcountry police itself.

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<sup>37</sup> Woodmason, *Carolina Backcountry*, p. 222

### CHAPTER III

#### CHARLES WOODMASON'S ORDERING OF THE BACKCOUNTRY

If the backcountry was a region where personalities were given more freedom to define social order, the South Carolina backcountry has been defined for historians primarily by one truly remarkable personality: the Reverend Charles Woodmason. Itinerant Anglican and voice of the Regulator movement, Woodmason's writings are the fullest account known of both the Regulators and the backcountry conditions that produced that movement. Woodmason perceived the same threats to social order that the Regulators did, but his position as an Anglican minister created in Woodmason a view of social disorder that merged lawlessness, insecurity, and Dissenting religious groups. His views were not coequal with those the Regulators, a group with whom he had an uneasy relationship. Woodmason's position as the Regulators' principal spokesman must therefore be qualified by an examination of his personal view of social disorder.

Woodmason was himself in a somewhat unsettled state when he arrived in the South Carolina backcountry in 1766. He had spent many years in Charleston, first as a merchant, but was more successful as a public servant, proving himself a faithful supporter of English law and King George. He held a number of offices, including justice of the peace. After the passage of the Stamp Act in 1765, he became a stamp distributor. Finding himself on the wrong end of the riots and mobs that attended the act's passage, Woodmason thought it best to leave Charleston. A devoted Anglican, Woodmason returned to London and was ordained a priest by the Church of England, assigned to St.

Mark's parish in the South Carolina backcountry. He arrived at Pine Tree Hill in October 1766.

Woodmason portrayed himself as a man without a country. He recalled his years in Charleston with a mixture of affection and bitterness. Before pursuing the office of Stamp Distributor, he recalled, "I was greatly caressed, and ev'ry ones favriter."<sup>1</sup> His office made him many enemies during the Stamp Act crisis in Charleston: "I was deem'd (and am still) a private spy and correspondent of the ministry – a faithless fellow – one that is a betrayer of the country, and of the rights and privileges of America – one in whom no confidence is to be plac'd."<sup>2</sup> The itinerant minister found a biblical analogy for himself in the 120<sup>th</sup> Psalm, a psalm that contains phrases such as "Woe is me that I am an alien in Meshech/that I must live among the tents of Kedar/Too long have I had my dwelling among those who hate peace."<sup>3</sup> Woodmason portrayed himself as a martyr, alienated from Charleston society, left to wander an unsettled backcountry: "the fatigue and pain – the toil and expense I have sustain'd in these peregrinations are beyond description – few beside me could have born them. The task deterr'd ev'ry one – none to be found to enter on it."<sup>4</sup> His self-portrait was that of a beleaguered minister, toiling without gratitude, and suffering much for the religious salvation of the backcountry.

Woodmason's "exile" from Charleston combined with a devout religious sensibility to imbue his journeys with a deep religious significance. Woodmason viewed himself as a sort of prophet in the wilderness, spreading morality and the gospel of

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<sup>1</sup> Woodmason, Carolina Backcountry, p. 193; quotation from "A Letter to an English Friend, March 26, 1771" in which Woodmason memorializes his life and the Regulator movement between 1765 and 1771.

<sup>2</sup> Woodmason, Carolina Backcountry, p. 193.

<sup>3</sup> Psalm 120.5-6 The Holy Bible, containing the Old and New Testaments New Revised Standard Version (New York: Oxford University Press, 1989), p. 632.

<sup>4</sup> Woodmason, Carolina Backcountry, p. 27.

English society among the backcountry people. “I am exactly in the same situation with the clergy of the primitive church, in midst of the heathens, Arians, and hereticks.”<sup>5</sup>

Woodmason’s backcountry was plagued by disorder, resulting from both its lack of English law and Anglican churches. Bandits, vagrants, idle poor, and Dissenters all combined to prevent the backcountry from obtaining the levels of English civilization to which he had become accustomed in Charleston.

Woodmason’s first impression of the backcountry was far from flattering. “The People around, of abandon’d morals, and profligate principles – rude – ignorant – void of manners, education or good breeding – no genteel or polite person among them – save Mr. Kershaw and English merchant settled here.”<sup>6</sup> Woodmason, the former “favriter” of elite Charleston society, portrayed his environs as lacking even the rudest elements of civilization. “The people all new settlers, extremely poor – live in logg cabins like hogs – and their living and behaviour as rude or more so than the savages.”<sup>7</sup> Woodmason’s definitions of orderly and disorderly society took on a very explicit racial tone: civilization was the land of white gentlemen, barbarity the domain of Indians. The backcountry was somewhere in between these two worlds. The people of the backcountry were “set down here just as a barrier between the rich planters and the Indians, to secure the former against the latter.”<sup>8</sup>

Woodmason’s backcountry was a borderland between “savagery” and “civilization.” In Pine Tree Hill, where he kept his residence, Woodmason found at least the rudiments of gentility in men such as Joseph Kershaw and Samuel Wyly, even though

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<sup>5</sup> Woodmason, *Carolina Backcountry*, p. 47.

<sup>6</sup> Woodmason, *Carolina Backcountry*, p. 6.

<sup>7</sup> Woodmason, *Carolina Backcountry*, p. 7.

<sup>8</sup> Woodmason, *Carolina Backcountry*, p. 27.

the latter was a Quaker. In the more remote parts of the backcountry, however, Woodmason encountered people who were “great oddities... They were as rude in their manners as the common savages, and hardly a degree removed from them. Their dresses almost as loose and naked as the Indians, and differing in nothing save complexion.”<sup>9</sup> The idea of white settlers behaving like Indians distressed the itinerant. Like many other white settlers, Woodmason perceived Indians as a physical threat. In his own words, he “dreaded the Catawbias. In short I trembled to hear of the savages.”<sup>10</sup> Worse still for Woodmason was the fear that the back settlers had fallen into a moral state worse than the Indians’.

One incident in particular inverted Woodmason’s dichotomy of “savage” Indians and “civilized” whites. In the early part of 1767, Woodmason was giving a sermon to a large group of people, “2/3 of them Presbyterians”

They [the Presbyterians] had prepared a band of ruffians as before to make disturbance – But a neighboring magistrate came to service and officiated as clerk, bringing with him a party of the Catawba Indians – These poor wretches behaved more quiet and decent than the lawless crew – who kept (as before) a great noise without the door; the Indians resented their affronts and fought with several of them.<sup>11</sup>

Woodmason’s anecdote was not intended as a compliment to the Indians, for indeed they had disrupted the sermon. Woodmason’s point was rather to demonstrate that backcountry manners had fallen so low as to be reproached by a group of Indians. The reason for such poor morals was demonstrated by the make-up of the crowd gathered: Woodmason’s backcountry had been overrun with Dissenters.

Woodmason’s concern for morality and the influences of Dissenters made him something of a threat himself to backcountry order. On New Year’s Day, 1767, for

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<sup>9</sup> Woodmason, Carolina Backcountry, p. 56, see also p. 61.

<sup>10</sup> Woodmason, Carolina Backcountry, p. 141.

<sup>11</sup> Woodmason, Carolina Backcountry, p. 20.

example, Woodmason preached against drunkenness. The sermon angered the local “tavern keeper (who is a rich fellow, and who has made an estate by encouraging vice and idleness)... He cried out like Demetrius that the craft was in danger – and (but behind our backs abus’d both my self and Chief Justice [Charles Shinner, who was present at the sermon], vowing vengeance on both.”<sup>12</sup> Tavern keepers and those who brewed alcohol made good profit in the backcountry, and Woodmason threatened their business. Woodmason ran afoul of local businessmen, but more frequently he found himself opposed by the Dissenting groups that he condemned from his pulpits.

Religion was not absent from the South Carolina backcountry. Although the Anglican Church had only a nominal presence and a single itinerant minister, Woodmason’s journal attested to the presence of a large number of Dissenting groups. Indeed, he often preached in Presbyterian and Quaker meetinghouses. Woodmason’s presence also encouraged a great deal of resistance. He frequently wrote of disturbances such as the one in which Presbyterians disrupted his sermons.

Woodmason continually derided the Presbyterians in his journal, placing himself at the center of conspiracy among them. According to Woodmason’s journal, his early sermons were often disrupted by Presbyterians. Some were bands of “ruffians,” such as those who provoked the fight with the Catawba Indians. In one case, Woodmason claimed, a local militia captain ordered a muster so that his company would not be able to attend one of the Anglican’s sermons.<sup>13</sup> And in a backcountry plagued by bandits and housebreakers, Woodmason attributed the burglary of his own lodgings to “some device

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<sup>12</sup> Woodmason, Carolina Backcountry, p. 12.

<sup>13</sup> Woodmason, Carolina Backcountry, p. 31.

of the Presbyterians.”<sup>14</sup> The Presbyterians did, to some extent, resent Woodmason’s presence. Joseph Kershaw, for example, refused to build an Anglican church, though requested to do so, because he feared “giving offence to his good customers the Presbyterians.”<sup>15</sup> However, in Woodmason’s view of the backcountry, social disorder and crime were so closely linked to religion that he could quickly and unquestioningly blame the Dissenters for all outrages within his parish.

The incursions of the Dissenters, or “sectaries” as Woodmason termed them, were the fundamental cause of the debased morality and society of the South Carolina backcountry. At the outset of his ministry in St. Mark’s parish, Woodmason avowed that he “came to this wild country to support the interests of the Church of England and the people of our communion, trodden under foot by the herds of sectaries.”<sup>16</sup> Indeed, the Presbyterians were the politically preeminent group in the upcountry, according to Woodmason, so much so that the area was “without any law or order... As all the magistrates are Presbyterians, I could not get a warrant – if I got warrants as the constables are Presbyterians likewise, I could not get them serv’d”<sup>17</sup> What little legal authority there might have been was in the hands of a dissenting group instead of devout Anglicans. Worse still, in Woodmason’s eyes, was that dissenters were being asked to prosecute dissenters, for banditry was the result of this proliferation of sects, especially the proliferation of Baptists.

To Woodmason, the evils that plagued the backcountry were intertwined in a mass of idlers, bandits, and Baptists, with the Baptists being the worst of the bunch.

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<sup>14</sup> Woodmason, Carolina Backcountry, p. 18.

<sup>15</sup> Woodmason, Carolina Backcountry, p. 50.

<sup>16</sup> Woodmason, Carolina Backcountry, p. 9.

<sup>17</sup> Woodmason, Carolina Backcountry, p. 45.

Since the appearance of these New Lights, more enormities of all kinds have been committed -- more robberies, thefts, murders, plunderings, burglaries and villanies of ev'ry kind, than ever before. And the reason hereof, is, that most of these preaching fellows were most notorious thieves, jockeys, gamblers, and what not in the Northern provinces.<sup>18</sup>

It was a simple enough equation: the flood of immigrants (and, thus, Baptists) into the backcountry had coincided with a rise in crime. This coincidence united Baptists with bandits in Woodmason's eyes: "[Baptists] have not the least objection to the stealing of my horse, or killing my cattle and hogs, and saying a long grace over their flesh when cook'd up to their table."<sup>19</sup> Put most simply, "the Pillory and Whipping Post... would not have been *New* to some of them."<sup>20</sup>

Woodmason was trying to drive a wedge between Anglicans and Baptists. Baptists were the "other," a group of thieves worthy of scorn. "For only draw a comparison between them and Us... at our solemn, grave, and serious sett forms, or their wild extempore jargon, nauseous to any chaste or refin'd ear."<sup>21</sup> Woodmason, possibly realizing the preeminence of Presbyterians began to exempt them from his scorn, for they "have no scruple of conscience to entertain the horse thieves."<sup>22</sup> Lawlessness instead accompanied the debauched and immoral Baptists, with their strange, licentious religion, taught by former criminals. And Baptist preachers had a considerable influence over their congregations, which fueled Woodmason's uneasiness about their presence. The South Carolina backcountry lacked governmental authority, so any show of power was suspect, especially a show of power by these unruly and unwashed evangelicals.

The Baptist preachers held great sway over their followers. Such influence in the hands of criminals was dangerous. Woodmason spoke of the Baptist preacher Philip

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<sup>18</sup> Woodmason, Carolina Backcountry, pp. 100-101.

<sup>19</sup> Woodmason, Carolina Backcountry, p. 106.

<sup>20</sup> Woodmason, Carolina Backcountry, pp. 101-102.

<sup>21</sup> Woodmason, Carolina Backcountry, p. 101.

<sup>22</sup> Woodmason, Carolina Backcountry, p. 107.



Mulkey, who could with “a nod or motion of his finger lead four hundred men into the wilderness... without asking any questions.”<sup>23</sup> And not only the men of the backcountry would follow a Baptist preacher.

What man amongst all the beaus and fine gentlemen of the land has such influence over the women as Joseph Reez?... Had he only said it, they would have stript off their smocks and gone stark naked.<sup>24</sup>

Here we have an added degree of uneasiness. The Baptists lived outside of the traditional, landed social order. They would follow their ministers anywhere, but “beaus and fine gentlemen” could not exert similar influence, not even among women. Baptists thus upset the patriarchal authority of the backcountry planters over their wives and daughters. The evangelists were former criminals with considerable influence in the backcountry. Their influence fueled Regulator fears about the poor. The poor were held in the sway of these ministers, and the ministers were outlaws.

Woodmason condemned the Baptists, he feared the bandits and he lamented the lack of proper society in the backcountry. However, even though he craved social order, he was far from enthusiastic about the Regulators. Despite lending his support to the movement, both by drafting the Regulator Remonstrance and by voicing his support in personal writings, he was wary of the vigilantes. Some of his misgivings might have been related to his antipathy towards the Presbyterians, whom he associated with the Regulators. However, Woodmason also associated the Regulators with lawlessness.

Great insolences are now committed by those fellows who call themselves *Regulators* – they are... wanton in wickedness and impudence – and they triumph in their licentiousness. It is said that above two thousand Presbyterians from North Carolina are coming down to join them – we have but 2 or 3 magistrates who are Episcopalians in this vast back country – and these they have threatened to whip for issuing writs against some of their lawless gang. They have actually whipped all the constables and sheriffs officers

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<sup>23</sup> Woodmason, Carolina Backcountry, p. 112.

<sup>24</sup> Woodmason, Carolina Backcountry, p. 113.

took and tore the kings writs – and judges writs. Silenced the constables – stopp'd payment of all public taxes – and we are now without law, gospel, trade, or money.<sup>25</sup>

The Regulators seemed to Woodmason a dangerous group, unfettered by law. When Lieutenant Governor Bull offered clemency towards the rioters if they disbanded, they rejected it. For their disobedience, Woodmason labeled the Regulators a “seditious multitude.”<sup>26</sup> However, his scorn for the group seemingly involved their method rather than their intention. Woodmason therefore offered himself as a moderator to bring the Regulators within the realm of legality.

For their part, the Regulators seem to have accepted Woodmason as a leader of the movement. They listened to the sermons he preached. And, despite Woodmason's portrayal of them as a lawless gang of Presbyterians, Woodmason acknowledged that the Regulators paid some respect to an Anglican minister: “'tis a mercy that they pay some regard to my gown.”<sup>27</sup> English ideals of deference to the established church existed, to some extent at least, in the backcountry, even among Presbyterians. Woodmason likewise claimed that his words had an impact upon Regulator actions. He related one incident where he “gave a sermon to a body of about 2000 arm'd persons, of the populace call'd Regulators – and it was happiness for many that I went there as I sav'd many homes from being burnt and stopped the outrages of the mob – no lives were lost nor blood spilt.”<sup>28</sup>

Woodmason shared with the Regulators a common concern for social order in the backcountry, for it was he who authored the Regulator Remonstrance. Although Woodmason was hesitant about Regulator outrages, he was also their foremost spokesman. Woodmason sympathized with backcountry settlers who had no courts and

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<sup>25</sup> Woodmason, Carolina Backcountry, p. 54-55.

<sup>26</sup> Woodmason, Carolina Backcountry, p. 60.

<sup>27</sup> Woodmason, Carolina Backcountry, p. 59.

<sup>28</sup> Woodmason, Carolina Backcountry, p. 28.

were plagued by wandering gangs of bandits. By 1771, his tone had shifted to one of paternal affection, referring to his parishioners as “my poor back country people.”<sup>29</sup> And while the Regulator Remonstrance was written by Woodmason, the group testified to the document as a just representation of their grievances: “4000 persons... sign’d, and witness’d to the truths of the contents, who intended marching in a body to [Charles Town] and delivering of it to the House,” claimed Woodmason. If the numbers were exaggerated, there was the intent to march on Charleston, and at least four of the Regulation’s leaders were willing to stand by the document in front of the South Carolina Assembly.

The ordering of the backcountry was not the action of an individual. Woodmason may have penned the Remonstrance, but the movement’s actions as they appeared in Charleston newspapers affirmed the Regulator’s goals. Their actions, as well as the Remonstrance, revealed that the ideals of British social order based upon property, law, and hierarchy governed the backcountry, even if British institutions were absent. Woodmason’s personality may have had a freer hand in defining backcountry social order, but those personalities involved in the South Carolina Regulator riots did not create a new conception of social order.

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<sup>29</sup> Woodmason, Carolina Backcountry, p. 199

## CHAPTER IV

### FULFILLING EXPECTATIONS: THE REGULATORS' ORDERING OF THE BACKCOUNTRY

Although British institutions did not extend very far into the backcountry, they very much shaped the Regulator view of society. Enemies were defined as those who opposed to the English ideals of social order. Regulator activity centered on the creation of an orderly English society neatly drawn along property lines. Even bandits understood the forms of English authority, going so far as to appropriate English legal forms to assert their dominance. White settlers, reliant upon English legal institutions for social order, expressed a sense of helplessness in the face of an uncontrolled bandit population. Because of this reliance the bandits can be said to have had “authority” over the backcountry. The Regulators were not helpless and were, in fact, quite effective in punishing criminals on their own. Yet the Regulator movement was by no means an assertion of independence from British authority. The Regulators craved the comfort of knowing that property would be secured in perpetuity, and only the courts could ensure that. Ironically, their activities represented the same threat to lowcountry planters that the bandits’ activities had represented to the Regulators. How the Regulators defined themselves can perhaps best be illuminated by how they defined their enemies.

The Regulators’ most obvious enemies were the bandits who presented the most immediate danger to order in the backcountry. These men and women threatened the most basic securities of person and property. Horse thieves, house-breakers, and highway robbers, these gangs of outlaws waged an all-out assault on the landed elite and wealthy

merchants of the Carolina upcountry. Crime was nothing new to the back settlers, but the summer of 1766 saw the beginning of a steady stream of thefts and murders and horrifying reports of bandit brutality. The Regulator Remonstrance of 1767 painted a bleak picture of a society ravaged by outlaws:

Our large stocks and cattel are either stollen and destroy'd – our cow pens are broke up – and all our valuable horses are carried off – houses have been burn'd by these rogues, and families stripp'd and turn'd naked into the woods – stores have been broken open and rifled by them (wherefrom several traders are absolutely ruin'd) private houses have been plunder'd; and the inhabitants wantonly tortured in the Indian manner for to be made confess where they secreted their effects from plunder. Married women have been ravished – virgins deflowered, and other unheard of cruelties committed by these barbarous ruffians – who... have hereby reduced numbers of individuals to poverty – and for these three years last past have laid (in a manner) this part of the province under contribution.<sup>1</sup>

These “ruffians” stole not only property but people as well. Slaves and women were kidnapped by bandits; others willingly ran away to join the outlaw gangs. But these were more than mere gangs. Bandits lived in independent communities and operated within a network of communication and association with other outlaw bands as well as with some of the more respectable upcountry residents.<sup>2</sup>

These “banditti”<sup>3</sup> were organized criminals – this was not a random scattering of individuals robbing whoever happened to be at hand. If an analogy to the twentieth-century Mafia is a bit stretched, it is still useful. The banditti were an organized and influential body. They had connections with wealthy and powerful men, some of whose power had been gained through their association with the bandits. The banditti held

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<sup>1</sup> Charles Woodmason, The Carolina Backcountry on the Eve of the Revolution: The Journal and Other Writings of Charles Woodmason, Anglican Itinerant, ed. Richard J. Hooker (Chapel Hill: University of North Carolina Press, 1953), p.214.

<sup>2</sup> Richard M. Brown, The South Carolina Regulators (Cambridge: The Belknap Press of Harvard University Press, 1963), pp.34-37; Rachel N. Klein Unification of a Slave State: The Rise of the Planter Class in the South Carolina Backcountry, 1760-1808 (Chapel Hill: University of North Carolina Press, 1990), pp. 61-64.

<sup>3</sup> A term used by the Regulators and their contemporaries, “banditti” was interchangeable with the simple plural “bandits.” I use the term banditti to denote the organized body of outlaws, finding it preferable and more evocative of organized gang networks than the term “bandits.”

backcountry magistrates in their sway, both through intimidation and bribery. Many of the robberies were complex in nature, as one can see in the case of John “Ready Money” Scott.

The story is told to us in the confession of George Burns. John Scott was a wealthy merchant and justice of the peace living along the Savannah River. Three weeks before the robbery, Burns was approached by Jeremiah Fulsome, “the ringleader and contriver” of the plan. Fulsome, Burns, and Nathaniel Foster (“a proper person to be of the party”) were to rob Scott with aid of Thomas Gray, a personal friend of Scott’s. Gray would enter the house as a friend and signal the other three if the Scotts were alone. They were and he did. Burns and Fulsome, their faces blackened and disguised, tortured Mr. and Mrs. Scott, while Foster stood guard. They allowed Gray to “escape” so Scott would not suspect him of the crime. The four participants made off with eighty pounds each, escaping across the river into Georgia. Justice was only served after Burns turned King’s evidence and confessed.<sup>4</sup>

Bandits were not an alien group in the backcountry. Many had lived there for years before turning to banditry, some of them connected with wealthy and prominent men. Thomas Gray had been a personal friend of John Scott’s. Anthony Duesto had lived in Fredericksburg Township since 1751, a neighbor to such important figures as Samuel Wyly and Joseph Kershaw.<sup>5</sup> Kershaw had served as witness to two of Duesto’s land transactions in 1763.<sup>6</sup> Thomas Moon, another future bandit, had also been a neighbor of

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<sup>4</sup> The confession of George Burns was printed in the South Carolina Gazette (Charleston) Feb. 22, 1768

<sup>5</sup> Duesto settled there at about the same time as a group of Irish Quakers. See Thomas J. Kirkland and Robert M. Kennedy. Historic Camden (Columbia, SC: State Company, 1905), pp. 69-71

<sup>6</sup> Duesto, also spelled “Distow” and “Devesto” bought 100 acres in February 1763 and sold off 550 acres in March of the same year. Both were witnessed by Kershaw. From Clara A. Langley. South Carolina Deed Abstracts, 1719-1772, 4 vols. (Easley, SC: Southern Historical Press, 1983)

Duesto, Wyly, and Kershaw. Moon's brother James served in the Fort Prince George militia company, along with another Moon brother, George, under the command of John Stuart.<sup>7</sup> Bandits were socially connected and came from the same colonial society that produced the Regulators. As it turned out, the bandits were influenced by the same ideals of British society to which they had set themselves in opposition .

Bandits such as Thomas Gray and Anthony Duesto, were connected with prominent backcountry figures. Joseph Kershaw, a confusing character, exemplifies this connection. Kershaw was a wealthy merchant in the Carolina backcountry, a partner in the Charleston merchant firm of Ancrum, Lance, and Loocock. He served as a representative in the assembly and was part of the committee to draft the Circuit Court Act of 1769. Yet in a private letter Charles Woodmason described Kershaw as an associate of outlaws.

None have merchant mills, or boat, or a pack of lawless banditti, blackguards and ragamuffins at their beck, save him. For indeed, few would chuse to be great and powerful in and over such a collection of villains. They indeed shew him respect and are at his devotion.<sup>8</sup>

Kershaw commanded such respect because he could provide the bandits with "that so much admir'd desir'd and allpowerful article, called rum!"<sup>9</sup> Local magistrates as well fell under the bandits' influence. "Magistrates... went snacks with [the bandits] in their plunder, and protected them."<sup>10</sup>

Kershaw had made enemies as well. In 1765, he successfully sued Thomas Moon for a debt of £640. Moon's brother James had sold property to Kershaw, as had Govee Black, a half-brother of the Moon's. The Moons and Black would later become some of

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<sup>7</sup> Muster Roll of Captain John Stuart's Company from the 12<sup>th</sup> August to the 15<sup>th</sup> September (1756) in McDowell, *Documents*, p. 207.

<sup>8</sup> Woodmason, *Carolina Backcountry*, p.146.

<sup>9</sup> Woodmason, *Carolina Backcountry*, p.146.

<sup>10</sup> Woodmason, *Carolina Backcountry*, p.234.

the most notorious bandits in the backcountry.<sup>11</sup> In 1766, South Carolina suffered through a prolonged drought. The people in the backcountry were “in great distress for want of provisions” and were “greatly relieved by the kindness of Mr. Kershaw, who open’d all his stores to them.”<sup>12</sup> How much of Mr. Kershaw’s kindness was extended on credit cannot be determined, but it was certainly possible that the relief he offered had resulted in at least one or two debts.

The banditti were connected not only with magistrates and prominent men but each other. A large number were linked by kinship. Out of a sample of 154 people accused of crimes during the Regulation, 41 shared their surname with another accused bandit.<sup>13</sup> Social networks also tied bandits together, as with Anthony Duesto and Thomas Moon. Blood and social ties organized the bandits into gangs, which formed “a chain of communication with each other, and have places of general meeting where (in imitation of councils of war) they form plans of operation and defense.”<sup>14</sup> A Charleston newspaper report stated that “gangs of villains” on the western frontiers had established “regular communication with each other from the back settlements of Georgia to those of Virginia.”<sup>15</sup> Taverns were key links in the banditti chain of communication, “where they received information the better to carry out their schemes or to elude the pursuit of justice.” Such communication allowed “these thieves [to] become formidable by uniting as a band.”<sup>16</sup> Charles Shinner, for example, was frustrated in his early attempts to stop the

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<sup>11</sup> Klein, *Unification* p.59.

<sup>12</sup> Woodmason, *Carolina Backcountry* p.7.

<sup>13</sup> See Klein, *Unification*, pp. 311-315.

<sup>14</sup> *South Carolina Gazette* Sept. 3, 1767.

<sup>15</sup> *South Carolina & American General Gazette* (Charleston), Aug. 7, 1767.

<sup>16</sup> William Bull, in a letter to Lord Hillsborough, Sept. 10, 1768, *PRO* 32: 38.



bandits because of the speed with which bandits received information about his movements.<sup>17</sup>

The banditti were unified both in a general community of thieves and in their own physical communities. One such community consisted of “mulattoes, free negroes, & notorious harbourers of run-away slaves.”<sup>18</sup> Another such town was located on the Georgia side of the Savannah River. Composed of forty men, women, and children, the town “had a square consisting of four houses 17 feet long and 14 wide” and was inhabited entirely by runaway slaves.<sup>19</sup> Other towns were the residences of criminals, where they lived with their “women and girls, very deep in the foulest of crimes... aiding, abetting – watching – secreting – trafficking and in ev’ry manner supporting and assisting these villains.”<sup>20</sup> The bandit communities were a threat to the backcountry planter that went deeper than the loss of his horse or his money; they threatened to carry off his slaves and potentially his wife and daughter.

White women and blacks of both genders were either kidnapped or ran away with bandit gangs. The presence of women in outlaw communities is explained both by the bandits’ having wives (some did), and also the bandits’ having kidnapped or persuaded women to run away with them. John Eymerie, a Piedmont planter, told the following story in his will:

[My wife] without reason or provocation whatsoever hath eloped from my bed and boarding, and associated herself with one vagabond, to rob me of all my effects... and being discovered, to avenge herself and satisfy her lust and ambition, had come divers

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<sup>17</sup> See pp. 9-10 above.

<sup>18</sup> South Carolina Gazette, July 25, 1768.

<sup>19</sup> South Carolina Council Journal MSS (Columbia: South Carolina Department of Archives and History), quoted in Brown, Regulators, p.32.

<sup>20</sup> Woodmason, Carolina Backcountry, p. 282.

times with divers other vagabonds, robed my housed, and threatening my life firing guns tourough my house in order to kill me.<sup>21</sup>

In a sermon preached to Regulator Rangers, Woodmason acknowledged that some in the audience had “personally been injur’d by the rogues. Some in their wives – others in their sisters, or daughters.”<sup>22</sup> This injury could come in the form of rape, kidnapping, or (as in the case of John Eymerie) abandonment.

Thus the bandits represented a threat not only to orderly society, but to an orderly household. Domestic patriarchy could not be maintained if one could not protect one’s own wife and children from bandit outrages. And women running off with bandits threatened male power. Eymerie’s wife abandoned her husband not simply for a life of crime but to “satisfy her lust and ambition.” Eymerie was powerless to stop it and was, literally and figuratively, cuckolded by a bandit gang. Regulators found in bandits the same threats to patriarchal authority that Woodmason had found in the Baptists: each was capable of leading off wives and daughters and subverting planter control over their families.

Fearful of the loss of their property and their families, planters recognized the organization of the bandits and the disruptions that such bands caused their society. Woodmason termed this pervading fear “the Dread which persons of condition and character entertain, even of their persons should they travel among us.”<sup>23</sup> The Regulator Remonstrance is reflective of this dread of bandit hegemony over the backcountry:

The gangs of robbers... have still reign’d without controul, ranging and plundering the country with impunity. We can truly say, they *reign*; as by their menaces, they intimidate many whom they injur’d, from laying hold on, and bringing them to justice.<sup>24</sup>

<sup>21</sup> will of John Eymerie, 1798 [written 1781], County Wills, WPA Transcripts, Abbeville County, v. 1, p. 232, quoted in Klein, *Unification of a Slave State*, p. 61.

<sup>22</sup> Woodmason, *Carolina Backcountry*, p. 282.

<sup>23</sup> Woodmason, *Carolina Backcountry*, p. 223.

<sup>24</sup> Woodmason, *Carolina Backcountry*, p. 217.

The bandits were the most direct threat to the security of property, but the Regulators perceived them within the context of a larger group of social outcasts and misfits, consisting of bandits, hunters, and other “vagrants.”

Hunters were men who, regardless of whether they owned land, subsisted primarily upon the deerskin trade. The trade was big business in South Carolina. In a list of Charleston exports from 1769, deerskins accounted for the second-largest commodity in terms of monetary value, following rice. In terms of weight, over 188,000 pounds of skins left South Carolina in that year, all headed to Great Britain. In terms of value, these skins fetched in almost 19,000 pounds sterling.<sup>25</sup> Hunting provided one not only with money, but food and clothing. It is difficult to make a comparison, but it seems likely that hunting provided an easier means of subsistence than did planting. A hundred years after the Regulation, a figure in central Illinois (settled as part of the same Scots-Irish migration that populated South Carolina) could sum the choice up this way:

Ez fer me, I kin shoot en trap al I in eat, jes' plantin' 'nough corn fer hoe-cakes en a little fodder, en some taters en turnips en pum'kins, en I hev a sight more smoked venison en b'ar meat in winter than I kin eat ez a single man with on'y one stommack.<sup>26</sup>

Simple ease might not have been the only reason for hunting. It was a source of income, attainable by anyone with a gun. Hunting was a means of acquiring money for the purchase of lands. It was also a means of paying off debts or trading with merchants for tools, as the Cherokees did.<sup>27</sup> In any case, there arose in the backcountry a group of wandering hunters, who became associated (in Regulator eyes) with the banditti.<sup>28</sup>

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<sup>25</sup> PRO 32: 126.

<sup>26</sup> Francis Grierson, *The Valley of Shadows*, quoted in John Mack Faragher, *Sugar Creek: Life on the Illinois Prairie* (New Haven: Yale University Press, 1986), p. 98.

<sup>27</sup> Corkran, *Cherokee Frontier*, pp.11-12.

<sup>28</sup> Klein, *Unification of a Slave State*, pp.52-56.

The more “respectable” elements of South Carolina society scorned the hunters. William Bull, lieutenant governor of South Carolina, denigrated those “who chuse to live rather by the wandering indolence of hunting than the more honest and domestic employment of planting.”<sup>29</sup> Henry Laurens, a prominent coastal planter, was harsher in his estimation: “Those back settlers or rifle-men are a parcel of riff-raff.”<sup>30</sup> Woodmason decried South Carolina youths who practiced “hunting – shooting – racing – drinking – gaming, and ev’ry species of wickedness.”<sup>31</sup> In 1782, thirteen years after the Regulation, a backcountry judge could still equate deer hunters with horse thieves.<sup>32</sup> The prevailing viewpoint of the planters was that hunting was not an honest endeavor, working and improving the land was. The Regulator Remonstrance voiced this fear of “idle” persons who “range the country with their horse and gun, without home or habitation.”<sup>33</sup>

The Regulators feared people ranging the country, because uncontrolled movement was contrary to their view of orderly society. Much as colonial authorities feared deerskin traders roaming throughout Indian territory, so too did backcountry leaders find threatening those who roamed freely. Woodmason emphasized bandit dominance by portraying them as villains “suffer’d to range the country uncontoul’d.”<sup>34</sup> He feared that uneducated children would grow up to be hunters, men who would “range the country with their horse and gun, without home or habitation: all persons, all places,

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<sup>29</sup> Bull to Hillsborough, Oct. 4, 1769. PRO 32: 108.

<sup>30</sup> Henry Laurens, The Papers of Henry Laurens, ed. Philip M. Hamer, 14 vols. (Columbia: University of South Carolina Press, 1968), 3:353.

<sup>31</sup> Woodmason, Carolina Backcountry, p. 226.

<sup>32</sup> Joseph W. Barnwell, ed. “Correspondence of Hon. Arthur Middleton, Signer of the Declaration of Independence” South Carolina Historical and Genealogical Magazine 26 (1925): p. 204.

<sup>33</sup> Woodmason, Carolina Backcountry, p. 226.

<sup>34</sup> Woodmason. Carolina Backcountry, p.217.

all women being alike to them.”<sup>35</sup> The deference associated with English hierarchy was absent from the hunters. Their very movement was testament to that.

One historian of colonial Virginia has argued that the built environment of colonial America served to reinforce hierarchy. This was accomplished through a very specific and orderly procession through the landscape, with access determined by rank.<sup>36</sup> Those who moved outside of the prescribed pathways undermined the gentility’s authority. Roving bands of hunters and bandits were anathema to the orderly English backcountry envisioned by the Regulators. Hunters and bandits were closely associated in the Regulator mind, since both groups belonged to an even larger body of people who the Regulators brought under the lash: idlers and vagrants.

If property, authority, and social hierarchy were all intertwined, anyone who did not conform to some place within that hierarchy was dangerous. Bandits were those who had committed assault against person and property. Hunters in the Carolina backcountry were not part of the English notion of landed society. They owned no property (or did not plant if they did own property), living instead off their kills. The Regulators envisioned a society where all white men owned and cultivated property, or at least practiced some form of “industry.” Towards this end, the Regulators called for a vagrancy law to be enacted. In England, landless laborers were seen as “very rough and savage in their dispositions...

The best way therefore will be to bridle them, and make them feel the spur too, when they begin to play their tricks and kick... Such men then are to be look’d upon as trashy weeds or nettles, growing usually upon dunghills, which if touch’d gently will sting, but being squeez’d hard will never hurt us.<sup>37</sup>

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<sup>35</sup> Woodmason, Carolina Backcountry, p. 226.

<sup>36</sup> Dell Upton. “Black and White Landscapes in Colonial Virginia” in Robert St. George, ed., Material Life in America, 1600-1860 (Boston: Northeastern University Press, 1988).

<sup>37</sup> Timothy Nourse, Campania Foelix (2<sup>nd</sup> edition, 1706), quoted in Hay, “Property, Authority, and the Criminal Law,” p. 25.

In addition to the punishment of criminals, the Regulators saw to it that idle persons were “squeez’d hard.”

The Remonstrance called for a vagrancy law, but even before formal legislation, the Regulators began the reformation of idle persons by enforcing their *Plan of Regulation*. “Such [persons] as they think reclaimable, they are a little tender of; and those they task, giving [assigning] them so many acres to attend in so many days, on pain of flagellation, that they may not be reduced to poverty, and by that be led to steal from their industrious neighbors.”<sup>38</sup> In a backcountry where legal institutions did not exist, a moral code of some sort had to serve as the governing agent. The Regulators thus adopted a very English moral code, whereby morality, property and personal industry were closely intertwined. To ensure against future crimes, the backcountry had to be properly reformed, “reclaiming” vagrant persons by putting them to work.

If wandering hunters and bandits undermined the subtle hierarchy of the English landscape, they also reminded the Regulators of a much more visible threat to “civilized” society, for they more closely resembled Indians than they did Englishmen. Woodmason feared Indians, and he constantly derided the backcountry people around him for the “savage” nature of the mores and manners. Bandits tortured their victims “in the Indian manner.”<sup>39</sup> Hunters made their livelihood through the deerskin trade and behaved much like Indians, at least in Regulator eyes. Uneducated children would grow up to range the countryside with horse and gun, which at the same time meant that they would grow up to be “more rude in manners, than the poor savages around us.”<sup>40</sup> The Regulator

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<sup>38</sup> *South Carolina & American General Gazette*, Sept. 9 1768.

<sup>39</sup> Woodmason, *Carolina Backcountry*, p. 214.

<sup>40</sup> Woodmason, *Carolina Backcountry*, p. 226.

remonstrance expressed outrage over Charleston's indifference in terms of civilization versus savagery, "as if we were... deem'd as *savages*, and not Christians."<sup>41</sup> The Regulators thus defined themselves, or allowed Woodmason to define them, as civil persons, opposed to the Indian-like bandits and hunters that they persecuted. But the same English notions of property and authority that governed the Regulators were also known to the banditti.

The bandits themselves well understood the forms and functions of English civil institutions, even as they set themselves in opposition to them. Read one newspaper account, "the banditti are so powerful as to cause magistrates, who have been active in bringing some of their gang to justice, to be seized, carried before them, and tried by a jurisdiction of their own forming."<sup>42</sup> The example given was of James Mayson, a magistrate living in the backcountry. One night in 1767, a bandit gang took Mayson from his home, tied him to a horse and carried him some eighty miles distant. They then staged a mock "trial" of Mayson and released him. The particulars of this trial were not known, but Mayson's release indicated that the bandits' purpose was to assert their authority, accomplished through a staged recreation of an English court. Indeed, the bandits' "authority" in the backcountry stemmed from residents' reluctance to act outside the legal system.

The bandits were not so alienated from English society that they did not appreciate a sermon from time to time. On his way to give a sermon in September, 1767, Woodmason "fell into an ambuscade of... horse thieves." They took Woodmason to their gang, who received him "with great civility, and promis'd to restore the horses they had

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<sup>41</sup> Woodmason, *Carolina Backcountry*, p. 221.

<sup>42</sup> *Virginia Gazette* (Williamsburg) Dec. 3, 1767.

stollen.”<sup>43</sup> The bandits were denied their sermon when the local militia discovered the time and meeting place at which Woodmason was to preach. The militia set a trap, but the bandits discovered the plan and avoided the militia.

Woodmason asserted that the “bands of society hang loose and ungirt” about the backcountry.<sup>44</sup> Yet, the frustration of the Regulators indicated that those bands bound them very tightly. True, the physical reach of Charleston’s courts did not extend into the interior, but the authority that the bandits were said to have exercised over the backcountry was only possible through backcountry citizens’ reluctance to act outside the legal system. The sense of powerlessness and helplessness – “the Dread” that Woodmason described – that ran through the Regulator remonstrance evoked a people who had vested all authority in a court system that had not protected its citizens. The remonstrance’s resentment towards an inattentive Assembly indicated the backcountry’s dependence upon Assembly action.

Bandits were known to their victims. Many of them had lived in a community for years before deciding to rob it. Much backcountry frustration stemmed from the fact that, despite knowing who had robbed whom, there was little that could be done about it.

When cattle and horses are stolen, and the thief is publicly known (as they will commit their robberies openly at noon day) persons who see and know of these evils, are backward in making information, as they thereby are certain to subject themselves to much trouble and expense, beside the risque they run of being plunder’d themselves by the rogues, in revenge for informing against them.<sup>45</sup>

The location of the court in Charleston meant that “the time and charge consequent on a prosecution of the offenders, is equal too, or greater than his loss.”<sup>46</sup> The court offered no protection, since it was more injurious to a backcountry citizen to prosecute a known

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<sup>43</sup> Woodmason, *Carolina Backcountry*, p. 29.

<sup>44</sup> Woodmason, *Carolina Backcountry*, p. 226.

<sup>45</sup> Woodmason, *Carolina Backcountry*, p. 216.

<sup>46</sup> Woodmason, *Carolina Backcountry*, p. 216.



bandit than it was merely to ignore him. Litigation was costly and bandits could enact revenge. Personal fear and simple economics created a feeling of powerlessness.

The backcountry as depicted by Woodmason was a region ruled by bandits because no one had the power or authority to punish the outlaws. “[We] daily do see, those very horses and creatures which have been stolen from us... we have seen these our creatures sold before our faces... and what defence are the laws... to us, against such as are below the law?”<sup>47</sup> The backcountry was actually hindered by its reliance upon British law as the arbiter of personal and proprietary disputes. The only recourse was the court in Charleston, and that provided no justice. In the absence of that most useful method of punishment, and with no promise of correction from the Assembly, powerlessness turned to despair: “many sober persons among us are become almost desperate in seeing the non-attention given to these and other matters of serious concern... they seem weary of living (as they have done for years past) without exercise of their civil and religious rights.”<sup>48</sup> Out of this desperation arose the Regulator movement, as backcountry residents began to recognize their own authority. However, the popularity of the movement, as well as its success, call into question the sense of powerlessness and despair that pervaded Woodmason’s descriptions.

The Regulators were not physically helpless. Judging from the steady stream of newspaper accounts that reported their successes, they were quite effective in punishing backcountry criminals, or at least driving them into neighboring colonies. The Regulators also recognized the physical authority that they held over the lowcountry elites.

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<sup>47</sup> Woodmason, *Carolina Backcountry*, p. 227.

<sup>48</sup> Woodmason, *Carolina Backcountry*, p. 223.

Woodmason claimed that four thousand people had signed the Remonstrance and that they had intended marching on Charleston to deliver the petition as a body, “but the Lt. Governour hearing of it, wrote to me, desiring it might be deliv’d by deputies in a constitutional way – which was done – and a fair draught sign’d by the deputies only, was presented – whereby the people were dup’d – and the remonstrance treated as the act and deed of only four impudent fellows, and not that of the people – this was a trick of the lawyers.”<sup>49</sup> Woodmason claimed that the movement was subverted by colonial authorities in Charleston, who feared the consequences of an angry mob marching into the lowcountry, particularly in regards to the effect such disruption would have on the slave regime. However, by his own hand, he had moderated the Regulator movement and ultimately placed it in a position of deference to British institutions.

Despite its inflammatory tone and its condemnation of lowcountry neglect, the Regulator remonstrance ended on a very deferential tone. Perhaps this was done for political expediency, but given Woodmason’s concern for order and propriety during the Regulator riots, it indicated a much deeper attachment to the forms and functions of British government.

We do not presume to reflect on or to censure the conduct, much less to prescribe or to dictate to those in authority; But we humbly submit our selves and our cause to the wisdom of our superiors – professing ourselves dutiful and loyal subjects to His Majesty King George – True lovers of our country – zealous for its true interests, the rights and liberties of the subject, and the stability of our present happy constitution in church and state.<sup>50</sup>

How deeply the Regulators may have felt these sentiments is questionable, but certainly the group depended upon the Assembly to institute courts in the backcountry. Whatever enormities they had committed in their pursuit of orderly society, the Regulators in the

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<sup>49</sup> Woodmason, *Carolina Backcountry*, p. 191, see also p. 204.

<sup>50</sup> Woodmason, *Carolina Backcountry*, p. 229.

end deferred to the Commons House of Assembly as the only authority that could answer their demand.

Social disorder is a perception and the irony of the conflict between the Regulators and the Assembly was that the rioters did not perceive the threat they posed to the lowcountry planters. The fear of an angry mob marching on Charleston brought with it fears of ensuing slave insurrection. The lowcountry was not physically threatened by bandit gangs, but they were threatened by the Regulators. Despite the fact that both sides generally agreed that property, hierarchy, and security of person and family constituted an orderly society, the lowcountry sought to quash the regulator riots in the name of the coastal planters' security.

Charleston and the lowcountry planters were equally concerned with maintaining their own authority and security, which entangled them in the Regulation. The Regulators did not find any sympathy among the coastal planters, who feared that extending courts into the backcountry would diminish their own influence and wealth. If everybody had to come to Charleston for court, then Charleston received all the backcountry's money on court days. If new counties were surveyed, then backcountry representatives would flood South Carolina's legislature, diminishing lowcountry influence in the Assembly. The relationship between Charleston and the backcountry became openly antagonistic when the Regulation itself began in 1767. Along with cries for circuit courts came backcountry threats to march down to Charleston and vote their own candidates into the assembly. The image of an angry mob of backcountry planters swarming down towards the coast frightened the assembly into acting against the Regulators.

In 1769 a bench warrant was issued for the arrest of twenty-five Regulators, in connection with an attack on merchant John Musgrove. Some planters in the backcountry opposed the Regulators' actions and disobedience to Charleston. These men called themselves Moderators, and the attack on Musgrove moved Charleston to authorize the Moderators to challenge the Regulators. A man named Joseph Coffel was selected to serve the warrants and to lead Moderator forces. Coffel, described by one man as "a stupid, ignorant, blockhead," was perhaps not the best choice.<sup>51</sup> Coffel's force was drawn from the ranks of Regulator opposition, which is to say from the very bandits who were the cause of the Regulator movement. He had "many returned horsethieves and banditti in his retinue."<sup>52</sup> He won little support in the backcountry, because he and his party impressed "provisions and horses wherever he pleases, leaving whole families destitute of both."<sup>53</sup> As the Moderators and the Regulators met for battle on the Saluda River, the Moderators were informed that they had also lost Charleston's support. The movement quickly disbanded. Charleston had tried to assert some control over the Regulator movement, but had placed its trust in the hands of Coffel, "a common robber, thief, and notorious rogue."<sup>54</sup> The Regulators thus achieved a victory of sorts, and in August 1769, the South Carolina Assembly finally passed the Circuit Court Act.

It was not until 1772 that the first court sessions opened in the backcountry. By that point, the Regulators had driven out or arrested the bandit gangs. Individual thieves and robbers still made their way through the backcountry, but no one any longer claimed that they reigned unimpeded. The perception of a disorderly society had, to a large degree

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<sup>51</sup> William Moultrie, Memoirs of the American Revolution, So Far As It Relates to the States of North and South Carolina, and Georgia (New York, 1802), quoted in Klein, Unification of a Slave State, p. 73.

<sup>52</sup> South Carolina Gazette, March 3, 1769.

<sup>53</sup> South Carolina Gazette, April 4, 1769.

<sup>54</sup> Woodmason, Carolina Backcountry, p. 207

passed, although lowcountry and backcountry conflicts would continue until the late-eighteenth century, when cotton's introduction united the two areas.<sup>55</sup> Also in 1772, before the courts opened, Charles Woodmason left the South Carolina backcountry for Maryland, worn out from his extensive travels and frustrated that the backcountry had not become the orderly society of Anglicans that he had envisioned. However, the Regulators seem to have been satisfied. William Bull had pardoned the leaders, and some of their number were sitting in the Assembly. In 1773, Bull wrote that the Circuit Court Act had produced "the most happy effects" and that the backcountry had finally settled into an orderly state.<sup>56</sup> The problems that had caused such disorder in the 1760s had been settled, and the backcountry had finally received the legal institutions that had been envisioned in 1761.

The Regulators' disbanding after the institution of backcountry courts indicated that, regardless of how settled the backcountry may have been, their perception had changed. Governed by the ideals of English law, which preserved and secured property rights and, by extension, landed hierarchy, they were satisfied to let the new justices perform the function of punishing criminals and maintaining social order. The disordered backcountry, the lawless land, the retreat for outlaws and those who could not live in civil society, quite easily settled into some semblance of order once the mob had been satisfied that the country would now return secure profits.

The backcountry, though, was never totally "lawless." At the very least, individual personality regulated action, as with the deerskin traders. Mass uprisings such as the Cherokee War and the Regulator riots attest that there were greater social

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<sup>55</sup> see Klein, Unification of a Slave State

<sup>56</sup> William Bull to Hillsborough, May 15, 1773, PRO 33: 263

authorities than individual personalities, even if those authorities were not formalized under law. Authority did not flow from one central source, as it did in the coastal settlements under the reach of royal law. Instead, backcountry settlers had to negotiate between competing authorities: Indians, neighboring colonies, bandits, Regulators and individuals within the community, each of which posed some threat to property and society in the minds of the settlers. Disorder was created out of this competition, and only when a single, royal authority had been established in the backcountry did its inhabitants feel secure.

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